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-1-	27	courts prior orders and statutory requirement (Cal Pen § 1054.9).				
	28					
Motion for Relief						
II		Motion for Relief				

1	This Motion is based upon this notice, the attached memorandum of points and authorities, the
2	statement of facts herein, the declaration of due diligence submitted prior and incorporated by
3	reference*, all records and pleadings on file in this matter, and any further evidence and argument
4	presented at the hearing.
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6	Respectfully,
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8	Sign: Dated:
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	- 2 -
	Motion for Relief

MEMORANDUM	IN	SUPPORT

I. INTRODUCTION

This Court granted Petitioner's request for discovery pursuant to Penal Code § 1054.9, intended to

other extraordinary relief. Although partial discovery has been produced by the District Attorney's

allow Petitioner to reconstruct the case record and prepare a post-conviction petition for writ or

Office, it is incomplete and lacks key categories of material mandated by statute and relevant

authority. Petitioner now seeks relief in the form of a hearing and custodial transport to resolve

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II. STATEMENT OF FACTS

- 1. Petitioner moved this Court under Penal Code § 1054.9 for post-conviction discovery.
- 2. The Court granted the motion and issued orders directing the District Attorney to provide 13 14 discovery after instruction from the appellate district was issued to force compliance.
- 15 3. In response, the District Attorney provided paper records only, omitting: Audio/video media,
 - Transcriptions of interviews, Fingerprint and booking information, Victim's prior case history
- 17 involving similar allegations, Interested communications (e.g., between law enforcement or
- 18 between DA and witnesses).

discovery process properly.

outstanding issues.

- 19 4. A hearing was set for December, but was unilaterally cancelled, and no rescheduling occurred.
 - 5. Petitioner received minutes noting the cancellation and, in good faith, attempted communication
- 21 with the Court twice, receiving no response.
- 22 6. The only communication received was from the appellate district, which advised Petitioner to
- 23 continue communication with the trial court and file a writ if necessary.

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Petitioner has been deprived of the opportunity to be heard, and seeks remedy now to complete the

1 III. LEGAL ARGUMENT 2 A. PETITIONER IS ENTITLED TO COMPLETE DISCOVERY UNDER PENAL CODE § 1054.9 3 4 Penal Code § 1054.9 provides that a defendant who is seeking post-conviction relief "may request 5 discovery materials in the possession of the prosecution and law enforcement authorities to which 6 the same defendant would have been entitled at time of trial." (Cal Pen Code § 1054.9(a)). 7 8 The California Supreme Court has held that this right includes both disclosed and undisclosed 9 materials if they fall within the scope of statutory entitlements and are relevant to post-conviction 10 proceedings. (In re Steele, 32 Cal.4th 682, 691 (2004)). 11 12 Discovery must include all materials previously disclosed, as well as any Brady-obligated, material 13 exculpatory evidence, or impeachment materials (In re Brown, 17 Cal.4th 873, 882 (1998)). 14 Petitioner is entitled to the complete case file, including recordings, digital media, transcripts, 15 victim statements, and communications known to the prosecution or law enforcement (People v. Superior Court (Maury), 19 Cal.4th 535 (1999)). 16 17 18 The omission of fingerprint evidence, transcriptions of interviews, and media directly contravenes § 19 1054.9's language and purpose. 20 21 B. DILIGENT EFFORTS HAVE BEEN EXERCISED 22 23 A post-conviction litigant must show diligence in seeking relief. Petitioner has done so by: 24 Promptly moving under § 1054.9, Responding to partial production by attempting to contact the 25 court, Receiving no answer, Contacting the appellate district for remedy, And receiving instruction 26 to file appropriate motions or writs. Where defense efforts to obtain discovery from counsel fail, 27 court intervention is necessary and proper (Perry, 34 Cal.App.5th 243, 544 (2019)). 28

1	Petitioner is not seeking a second round of discovery frivolously, but rather seeks enforcement of
2	the existing order to include materials within the scope of § 1054.9 and supporting case law (In re
3	Steele, 32 Cal.4th at 695–96).
4	
5	C. PETITIONER WAS DENIED ACCESS TO A TIMELY HEARING
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7	The hearing scheduled for December was improperly canceled. No new date was set. Petitioner,
8	acting with diligence, attempted to communicate with the Court and was denied a response. This
9	deprived Petitioner of the due process right to be heard before discovery could be deemed
10	completed.
11	
12	This denial of access to the Court compounds the deprivation caused by incomplete discovery and
13	violates Petitioner's right to seek full and fair post-conviction relief (In re Clark, 5 Cal.4th 750, 767
14	(1993)).
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16	IV. CONCLUSION
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18	Petitioner respectfully requests that the Court:
19	1. Issue an order scheduling a new hearing to address outstanding discovery items; Issue an order for Petitioner's custodial transportation for purposes of said hearing;
20	2. Direct the District Attorney to explain the omission of key materials (media, transcripts, prior victim case files, etc.);
21	3. Ensure compliance with Penal Code § 1054.9 by clarifying that discovery includes all materials known to the prosecution and/or law enforcement.
22	
23	Respectfully,
24	
25	Sign
26	Print .
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	- 5 -

Motion for Relief

DECLARATION OF DEFENDANT AS PETITIONER

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I undersigned, declare:

I am the defendant in the above-captioned matter, appearing here as petitioner seeking.

post-conviction discovery orders.

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 I am seeking to reconstruct the file in this matter, of which I do not presently have a full and complete copy.

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• I believe the material items requested are necessary and intend to use such items in the preparation of a petition for writ or other post-conviction relief.

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 I have exercised due diligence in my attempt to procure the items listed from counsel of record and other reasonable sources, was issued a discovery order pursuant statue thereafter, having been unsuccessful, and have been provided only partial discovery thus far, and require assistance and order from this Court.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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Sign

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Motion for Relief

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